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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,768	12/02/2003	Anthony L. Owoc	D0932-00321	3267

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EXAMINER

LAUX, JESSICA L

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/725,768	Applicant(s) OWOC ET AL.	
	Examiner Jessica Laux	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-21 is/are allowed.
- 6) ☒ Claim(s) 1-15 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner acknowledges and accepts the changes to the drawings and the specification as submitted in the amendment filed March 23, 2006. However the drawing objection to show the fasteners of claim 11 has not been overcome. This action is in response to the above mentioned amendment and is made non-final in view of applicants arguments.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fasteners through the female connector and into said post, of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Art Unit: 3635

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-8, 14-15 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fein (des 300566) in view of Teasdale (5480126).

In regards to claims 1 and 22: Fein discloses a post cladding element, comprising: a one-piece elongated tubular flexible body having first and second opposing longitudinal edges (Figure 1) and a continuous seam closure formed along said body and defined at said first and second opposing longitudinal edges of said flexible body, whereby a post may be clad by flexing said body to open said seam closure a sufficient width to dispose said flexible body around said post, whereby said opposing longitudinal edges are mated (this is a method step in an apparatus claim and as such is not given patentable weight, however Fein depicts in Figure 2 that the edges are capable of being mated), wherein an outer surface of said flexible body includes an ornamental configuration (where ornamental is defined by Cambridge Dictionaries Online, dictionary.cambridge.org, as a decoration which is added to increase the beauty

Art Unit: 3635

of something. Since a cladding element is used to clad it therefore covers the original and since beauty is relative the cladding element of Fein is considered to have an ornamental configuration). Fein does not disclose that the seam closure is a male and female connection that cooperates to hide the seam closure. Teasdale discloses a post cladding element having a seam closure (Figure 4) comprising female (18) and male (16) connectors disposed to mate with each other (Figure 4), wherein said male and female connectors cooperate to camouflage or hide said seam closure into an ornamental design (Col. 3, lines 20-22). And wherein the female connector comprises a U-shaped slot (Figure 2) disposed at said first longitudinal edge and facing said second longitudinal edge to receive said male connector. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the structure of Fein to have the connectors of Teasdale because it allows for a more solid lock.

In regards to claim 4: The post cladding element of claim 1, wherein said male and female connectors include a retention latch or barb (Teasdale – Col. 3, lines 10-13 and Figures 2-3).

In regards to claim 5: The post cladding element of claim 1, wherein said tubular flexible body comprises PVC (Teasdale – Col. 2, lines 57-58).

In regards to claim 6: The post cladding element of claim 1, wherein the element is capable of opening a sufficient width to be about the length of the smallest interior dimension of the element when fully closed.

In regards to claim 7: The post cladding element of claim 1 wherein the element is capable of opening a sufficient width to be less than the length of the smallest interior

Art Unit: 3635

dimension when fully closed and the element is capable of being slipped over a post from a top or bottom end of said post.

In regards to claims 8, 14-15 and 23: Claim 8 recites the method of "providing" and "flexing" the post cladding element of claims 1 and 4-7 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to flex the body since that would provide a simple method of cladding.

In regards to claim 24: Fein discloses a post cladding element, comprising: a one-piece elongated tubular flexible body having first and second opposing longitudinal edges (Figure 1) and a continuous seam closure formed along said body and defined at said first and second opposing longitudinal edges of said flexible body, whereby a post may be clad by flexing said body to open said seam closure a sufficient width to dispose said flexible body around said post, whereby said opposing longitudinal edges are mated (this is a method step in an apparatus claim and as such is not given patentable weight, however Fein depicts in Figure 2 that the edges are capable of being mated), wherein an outer surface of said flexible body includes an ornamental configuration (where ornamental is defined by Cambridge Dictionaries Online, dictionary.cambridge.org, as a decoration which is added to increase the beauty of something. Since a cladding element is used to clad it therefore covers the original and since beauty is relative the cladding element of Fein is considered to have an ornamental configuration). Fein does not disclose that the seam closure is a male and female connection that cooperates to hide the seam closure. Teasdale discloses a post cladding element having a seam closure (Figure 4) comprising female (18) and male

Art Unit: 3635

(16) connectors disposed to mate with each other (Figure 4), wherein said male and female connectors cooperate to camouflage or hide said seam closure into an ornamental design (Col. 3, lines 20-22). And wherein the female connector comprises a U-shaped slot (Figure 2) disposed at said first longitudinal edge and facing said second longitudinal edge to receive said male connector. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the structure of Fein to have the connectors of Teasdale because it allows for a more solid lock.

The recitation of claim 24 stating "post cladding element disposed around said post member by flexing" is a method step and is not given patentable weight in an apparatus claim. Since the element of Fein in view of Teasdale is capable of being disposed around a post by flexing said body to open said seam closure a sufficient width to dispose said flexible body around said post member, the claim limitations are considered to be met.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fein in view of Teasdale as applied to claims 1-8 and 14-15 above, and further in view of Davis (5956920). Fein in view of Teasdale teaches a post cover element as in claims 1-8 and 14-15 above, but does not teach the element to have fasteners through the female connector to secure the element to a post or to have a decorative molding proximate the top or bottom of the body and for the element to cover a pre installed post.

In regards to claim 11: Davis teaches a post cladding element where the female connector is configured to have attachment means through it for securing the element to

Art Unit: 3635

a post (Col. 4, lines 56-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element as taught in claim 10 above to have fasteners through the female connector as taught by Davis for the purpose of securing the element to the post in an aesthetically pleasing way.

In regards to claim 12: Davis teaches a post cladding element having decorative molding applied to the top and or bottom of the post (Col. 3, lines 19-24), as noted by the applicant in paragraph 0017 of the specification. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element as taught in claim 8 to have molding placed at the ends of the post as taught by Davis as this would further protect the post by covering the ends.

In regards to claim 13: Davis teaches a post cladding element that can retrofit and existing post. It would be obvious to modify the invention as in claim 8 to be around an existing post as taught by Davis to protect the post from further exposure to damaging elements and thus prolonging its utility.

Allowable Subject Matter

Claims 16-21 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).


Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JL
05/01/2006


N. Slack
Primary Examiner